

BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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In the Matter of the Application of California American Water Company (U 210 W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates.	A.12-04-019 (Filed April 23, 2012)
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**PUBLIC WATER NOW (formerly Citizens for Public Water) REPLY
COMMENTS AND REQUESTS DEFERRED HEARING ON MOTION
TO APPROVE SETTLEMENT AGREEMENT ON DESALINATION
PLANT RETURN WATER**

July 26, 2016

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In accordance with Rule 12.2 of the Commission's Rules of Practice and Procedure ("Rules"), Public Water Now (PWN) respectfully submits its comments on the Joint Motion for Approval of Settlement Agreement on Desalination Plant Return Water (the "Return Water Settlement Motion" filed in this proceeding on June 14, 2016). PWN also requests an evidentiary hearing on the settlement motions following the resolution of Phase 2 of this proceeding, completion of the joint federal/state environmental review process, and further development of the relevant factual record.

I. INTRODUCTION

Public Water Now (PWN) participated in the settlement conference calls in good faith, and raised certain questions with the participants. In the April 2016 call, PWN expressed its position to not support the return water SA.

Public Water Now opposition was sent to the Service List in an email to all parties to A1204019, dated June 16, 2016, not an official filing. PWN has reviewed its earlier informal email submission, and seeks here to repeat and expand on its opposition with this formal filing of comments.

Public Water Now notices and opposes the proposed Return Water Settlement Agreement (SA) based on two significant oversights or omissions. One is the inadequacy in addressing cost to Peninsula ratepayers. The other is the weakness in the data used for the parameters for the agreement. Both are intertwined.

much of the information the SA is based on is stale or in flux, not evaluated in the later computer modeling (still not available to the public), precedes the issuance of the project DEIR/DEIS, and therefore is premature and may be misleading.

II. BACKGROUND

It seems entirely appropriate to rethink the relevancy of new and current data in light of the time that has passed. Cal Am acknowledges that the scoping ruling and later clarifications for the MPWSP

(A1204019) were made in 2012 and 2013. (Joint Motion to Strike MCWD comments filed July 22, 2016, page 8-9). (MPWSP = Monterey Peninsula Water Supply Project)

We are now will into 2016, a full three plus years beyond these earlier decisions, and well after huge delays were introduced by inadequate DEIR information and analysis. It is also well after the Pure Water Monterey reclaimed water project has caught up and passed Cal Am's MPWSP. The delays in Cal Am's proposed MPWSP have caused much of the earlier data to become very stale, and only marginally useful. This could become an Achilles heal if it is not addressed.

If there is not a mechanism to rethink more recent and highly relevant information, we are doomed to make mistakes of judgment based on misleading or inappropriate information. The facts of 2012 are stale, especially when the fact-collecting process since then has gotten high profile attention, is ongoing, and is crucial to coming decisions. Therefore a new evidentiary hearing seems justified.

III. COMMENTS

A. Not based on current or acceptable baseline data

1. The entire quantity picture about 'return water' is based on assumptions that are not being proven by current data from the test slant wells. The SA is based on assumptions from the old and challenged computer models. New models are being developed, but those modeling assumptions and applications have not been revealed to the public. But they are coming, according to comments from CPUC staff and the DEIR/DEIS contractor, but may not be revealed for several months. Therefore this SA seems premature, and may will be misleading unless verified later.

2. Cal Am's MPWSP is based on an assumed salinity of 96%, meaning that about 4% must be returned to the Salinas River Groundwater Basin (SRGB). This 4% is a premium cost on ratepayers, an additional cost above the actual water delivered to customers, all for the privilege of having Cal Am deliver water via its MPWSP.

3. Cal Am slant well data currently shows the percentage of salinity to be in the 92% range---far lower than the targeted 96% in the settlement agreement. The SA describes the initial volume of returned water at 7%, clearly above the targeted 4%, and nearly double the amount discussed in the tariff sheet.

This means the cost of the subsidy covered by ratepayers may be nearly double the amount Cal Am has projected in its MPWSP.

4. The SA describes the return water volume to average 5.5% over thirty years. Yet Cal Am has frequently stated that the target of 4% return requirement will be met shortly, or in a few years. The SA describes the legal commitment to allow the return water requirement to evolve over 30 years.

5. The test slant well was expected to provide the baseline data for projections. The plan for continuous pumping data, to determine if sustained pumping has an impact on groundwater level or sea water intrusion, has not been accomplished. The test slant well has had numerous interruptions. The longest uninterrupted duration of pumping has been about 4 months. The data so far is not even suggestive of meeting the target of 4% from SGWB.

4. Therefore the SA is not based on current data, not reflective of Cal Am projections, not economical to ratepayers, and not acceptable as currently written.

B. Open-ended costs to ratepayers, without suggested limits nor criteria for containment nor a cost cap

1. The SA is excessively open-ended, thus creating a new cost risk to ratepayers. The cost of erroneous planning assumptions about 'return water' volumes fall entirely on ratepayers. Neither Cal Am nor the receiving entities have been mentioned in the SA to assume any risk for return water being in excess of planning assumptions.

2. The SA describes how return water will be allocated to Castroville Community Services District (CCSD) and Castroville Seawater Intrusion (prevention) Project (CSIP). Contingencies for exceeding the assumed return water estimates are not precise. The basic assumption is for 4% SRGB return water. The initial commitment to CSIP for 3 months is for water at 7%. (SA para 2.c.1.) Later volumes will be based on calculations of percentages of water attributed to SRGB. No limits are mentioned. This is open-ended, with the risk of all unaddressed costs falling on ratepayers. The SA is silent on the risk and cost to ratepayers. There is 'true up' language in the SA (para 2.c.iii-v.) about water volumes, but the impact on ratepayers is assumed to be acceptable to the parties. PWN protests

this lack of attention to ratepayer costs, and to the open-ended aspect of higher costs to satisfy the 'return water' obligations. There is no containment language nor references to contingencies if volumes increase. There is no cap on cost to ratepayers for increased volumes. All missed projections or actual increased return water requirements fall on ratepayers.

3. The SA is designed around the projection of return water at 4%, with the excess 'return water' requirement in excess of 4% to go to CSIP. Parties must be reminded that all produced return water will be an additional cost on ratepayers. It will be a premium cost for Cal Am's MPWSP. If MPWSP had in fact used slant well intakes under the bay, rather than under the coastal dunes, we may be having a very different discussion. The original plan was for slant well intakes under the ocean floor, but Cal Am decided to maximize intakes under the coastal dunes, thus increasing the cost for return water on ratepayers. Cal Am has yet to explain why the slant well drilling was stopped short of the ocean floor.

4. On the other extreme, if volumes of return water required under the Agency Act are less than projected, this SA commits Cal Am to deliver a minimum of 4% to CCSD. This protects CCSD, but offers no alternative to ratepayers except to pay for the difference. This may be solace to CCSD. But again, Cal Am expects ratepayers to pick up the tab. It is a ratepayer subsidy for CCSD and CSIP.

5. Ratepayers are already facing a cost of about \$4400/af for new water. If ratepayers receive only 96%, the tariff sheet still makes ratepayers cover about \$4000 for every acre foot returned to the basin. If the percentage of SRGB is greater than 4%, the burden increases on the ratepayer.

6. The threat of reduced water quality to CCSD is real, and should be considered a cost risk to CCSD. The proposed SA relieves CCSD of this risk without a compensating cost to CCSD to offset the 'return water' solution. CCSD is to pay only its current ongoing operational cost equivalent, with no premium on its ratepayers to address the threat to its water supply. (SA para 5.1.i & ii.) Without a premium cost to CCSD, the Peninsula ratepayers are further subsidizing the risk faced by the lower income community of Castroville. When did this idea become a principle of Cal Am's MPWSP? There should be no free lunch. Even a lower income community should share in the cost of alleviating the risk. Peninsula ratepayers are not in the charity business, paying one of the highest rates in the country for its water.

7. The only deference to ratepayer interests is the comment that getting something for the return water is better than nothing. PWN argues that this "something" is piddling, and the excessive exposure to higher costs on ratepayers shows that no attention of any significance was given to ratepayer interests. Whereas maximum attention was given to CCSD and CSIP customers. This reflects a bias, and needs major reworking to be acceptable to Peninsula ratepayers.

C. Other concerns

1. There are still no water rights owned by any party to this 'return water' proposed SA. It seems to be a preemptive plan. Although a physical solution is mentioned, no procedural step appears in any Cal Am schedule. And to date, no party has suggested a time schedule for its determination. To my knowledge, the process will be a litigated one, filed before the SWRCB. That step should become part of any planning schedule.

6. The cost to Peninsula ratepayers is compounding with every step of the Cal Am MPWSP. Delays from its conflict of interest is costly. Flawed modeling in the early stages is costly. Interrupted and irregular test slant well pumping schedules has led to inconsistent data, and a rushed schedule that overlooks valuable analytical needs. This proposed SA adds more subsidy (premium) costs to ratepayers. At some point, the cost of the entire project needs to be evaluated, and seriously compared to other options, whether the options come from Cal Am or others. But the needed water supply was never intended to be "at any cost." Some comparable cost options must be evaluated. The CPUC could be part of this review. Regardless it is unacceptable that costs continue to skyrocket on Monterey Peninsula ratepayers.

IV. Re Reasonable in Record, Consistent with Law, and Public Interest

1. The record on the data for the return water agreement is incomplete and inadequate. It is based on stale information when new information is available, or forthcoming. The record started in 2012. The evidentiary material presented since then is too dated to remain fully relevant, particularly since the test well data record is recent and available. However that test well data relied heavily on computer modeling assumptions that were deemed by CPUC's ESA consultants to be insufficient or deficient. The computer modeling is now undergoing major recalibration, but it has not yet been released to the

public. The record to date is clearly incomplete.

2. PWN believes the return water is inconsistent with the law in that appropriate water rights are not held by the party (Cal Am) making promises to deliver water. The agreement commitments cannot be assured by Cal Am.

3. It is not in the public interest to expose Peninsula ratepayers to open-ended costs. Nor is it in the public interest to create a subsidy of CCSD customers by Peninsula customers. The charitable nature of the return water SA is overly generous to SRGB customers, and takes advantage of Peninsula customers. This is poor public practice, and is not in the public interest.

V. CONCLUSIONS

Public Water Now 1) opposes the Return Water SA as presented, and 2) requests a delayed hearing so that the record can reflect current information and issues.

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